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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,328	04/03/2001	Srinivas Gutta	US010164	1775

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EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2685

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,328

Applicant(s)

GUTTA ET AL.

Examiner

Duc M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 2-10, 12-20, 22-30 and 32-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11, 21, 31, 38 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is in response to applicant's response filed on 6/17/05. Claims 1-39 are now pending in the application.

Information Disclosure Statement

1. The references listed in the information disclosure statements submitted on 9/10/02 has been considered by the examiner (see attached PTO-1449).

Election/Restrictions

2. Applicant's election with traverse of group I (claims 1, 11, 21, 21, 38-39) in the reply filed on 6/17/05 is acknowledged. The traversal is on the ground(s) that the restriction does not show "separate classification, status or field of search". This is not found persuasive because

- I. Claims 1, 11, 21, 31, 38-39 drawn to a method for recommending an item based on user's preferences under one or more environmental conditions, classified in class 705, subclasses 10, 26
- II. Claims 2-4, 12-14, 22-24 drawn to a method for recommending a radio station, or content or product based on user's preferences under one or more environmental conditions, classified in class 705, subclasses 10, 26 and class 455, subclasses 3.01+, 432.3.
- III. Claims 5-8, 15-18, 25-28, 32-35 drawn to a method for recommending an item based on different environmental conditions such as location,

weather or user motion, classified in class 705, subclasses 10, 26 and class 455, subclass 456.5.

- IV. Claims 9-10, 19-20, 29-30, 36-37 drawn to a method for recommending an item based on preferences of a user profile, classified in class 705, subclasses 10, 26 and class 455, subclass 432.3.

Inventions I (claims 1, 11, 21, 21, 38-39) and II (claims 2-4, 12-14, 22-24) are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination (group I) as claimed does not require the particulars of the subcombination as claimed because the combination has user preferences and environmental condition features that does not require the particulars of the subcombination as claimed for patent ability. The subcombination has separate utility such as a radio station, a content or product.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §

806.05(c)). In the instant case, the combination (group I) as claimed does not require the particulars of the subcombination as claimed because the combination has item recommendation and user preferences features that does not require the particulars of the subcombination as claimed for patent ability. The subcombination has separate utility such as user location, weather or user motion conditions.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group III, restriction for examination purposes as indicated is proper.

Inventions I and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination (group I) as claimed does not require the particulars of the subcombination as claimed because the combination has item recommendation and environmental condition features that does not require the particulars of the subcombination as claimed for patent ability. The subcombination has separate utility such as preferences of a user profile.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group IV, restriction for examination purposes as indicated is proper.

Inventions II, III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if

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they are shown to be separately usable. In the instant case, invention II has separate utility such as radio station, content or product while invention III has separate utility such as user location, weather or user motion, and invention IV has separate utility such as preferences of a user profile. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Groups III or IV, restriction for examination purposes as indicated is proper.

In summary, since the search required for Group I is not required for Groups II, III or IV, the requirement is still deemed proper (burden search) and is therefore made FINAL.

3. Claims 2-10, 12-20, 22-30, 32-37 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/17/05.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1, 11, 21, 31, 38-39** are rejected under 35 U.S.C. 103(a) as being unpatentable by **Tuzhilin** (US **6,236,978**) in view of **Asgharzadeh et al** (US Patent Number **5,590,246**).

Regarding claim **1**, **Tuzhilin** discloses a method for recommending an item to a user, comprising the steps of:

- observing preferences of said user under one or more environmental conditions (see col. 11, lines 20-29 and col. 13, lines 38-65); and
- generating a recommendation score for said item based on features of said item and said observed preferences of said user under said one or more environmental conditions (see col. 12, lines 4-24 and col. 13, lines 38-65).

Here, although **Tuzhilin** is silence on the recommendation score, it is noted that in order to recommend an item (i.e, perfume or restaurant) to a user, it is clear that the fuzzy logic rule based system as disclosed by **Tuzhilin** (see col. 5, line 1 – col. 10, line 50) would obviously derive scores for recommended items based on maximum scores in the similar way as mentioned by **Asgharzadeh** (see col. 2, lines 40-53). Therefore, the claimed limitation is made obvious by **Tuzhilin** and **Asgharzadeh**, for generating recommendation scores as claimed, in order to produce recommend items to a user according their highest scores.

Regarding claims **21, 38**, the claim is rejected for the same reason as set forth in claim 1 above, wherein it is clear that in order to implement the fuzzy logic rule based system as disclosed by **Tuzhilin**, a computer readable medium is obviously, if not

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inherently, required in order to compute scores and generate recommended items to a user.

Regarding claims **11, 31, 39**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, **Tuzhilin** discloses the environmental characteristics (user location) for a given time as claimed (see col. 12, lines 4-25 and col. 13, lines 38-65).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 20020077931A1 to **Henrion** et al, US20040068552A1 to **Kotz** et al, US 20020199194A1 to **Ali**, US006571279B1 to **Herz** et al, US006463382B1 to **Bullock**, US006209026B1 to **Ran** et al, US006005597A to **Barrett** et al, US006370513B1 to **Kalawa** et al, US006851090B1 to **Gutta** et al, US006636836B1 to **Pyo** and US006704931B1 to **Schaffer** et al.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for formal communications intended for entry)

(571)-273-7893 (for informal or draft communications).

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Hand-delivered responses should be brought to Customer Service Window,
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry concerning this communication or communications from the examiner
should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893,
Monday-Thursday (9:00 AM - 5:00 PM).

Or to Edward Urban (Supervisor) whose telephone number is (571) 272-7899.

Duc M. Nguyen

July 28, 2005

A handwritten signature in black ink, appearing to read 'Duc M. Nguyen', written over a horizontal line.